IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5754 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgement? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

MUNICIPAL & PANCHAYAT EMPLOYEES' UNION

Versus

KALOL NAGARPALIKA

Appearance:

MRS DT SHAH for the Petitioner.

MR PRASHANT G DESAI for the Respondent.

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 28/08/2001

ORAL JUDGEMENT

1. This petition is filed challenging the Award passed by the Industrial Tribunal dated 18.4.1988 in Reference (I.T.) No. 768 of 1981. The petitioner herein had raised certain demands and the dispute was referred to the Industrial Tribunal for adjudication. The Tribunal, after hearing both the sides and after considering the evidence on record, granted certain

demands which were found to be justified. The Tribunal has observed at page 16 of the Award (page 57 of the compilation) that so far as demand Nos. 3, 5, 8 and 9 are concerned, the Union has not insisted for the same, as, substantively, those demands have been satisfied by the Management. Therefore, no order was passed so far as those demands are concerned. So far as demand No.3 is concerned, the same was regarding giving medical benefit. It seems that, in view of the pursis given, which is at page 41, the Union had not pressed the aforesaid demand. It is argued by Ms.Shah for the petitioner-Union that the Union had never given up demand No.3 and she read the Pursis before me. However, there is some erasure in the said Pursis which is at page 41. It seems that, initially, the demand was not pressed and it is after erasure that it is pressed. Apart from the said fact, there was a detailed argument on behalf of the Union regarding other demands, but, so far as this demand is concerned, even as per the judgment, no such arguments are finding place in the judgment of the learned Judge. Ms. Shah has also fairly submitted that, subsequently, the said demands have been accepted by the Management and, therefore, this demand was regarding the intervening period. Considering the facts and circumstances of the case, as well as considering the fact that the Pursis in question is also not very clear and especially when the learned Judge has considered arguments regarding other demands and it seems that no argument was made before the Tribunal regarding this demand, while deciding this petition, which is in the nature of a petition under Article 227 of the Constitution of India, it is not possible for this Court to arrive at the conclusion that, even though the said demand was pressed, the Court had not adjudicated the same.

2. Considering the fact that, subsequently, even the Management has accepted the said demand, this petition is not required to be entertained. Otherwise also, no arguments were canvassed before the learned Judge on this demand and now, it is not possible to adjudicate this disputed question of fact whether it was pressed at the time of hearing or not. In that view of the matter, this petition cannot be entertained.

If the petitioner-Union has got any grievance, it can raise the said demand in accordance with law so far as it concerns the medical benefits. Of Course, this Court has not expressed any opinion regarding the justification or maintainability of such demand.

So far as the present petition is concerned,

since I do not find any substance, the same is rejected.
Rule is discharged with no order as to costs.

28th August, 2001 (P.B. Majmudar, J.)

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(apj)